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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,204	02/13/2006	Robert Albertus Brondijk	NL031029	6178

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
HINDI, NABIL Z	

ART UNIT	PAPER NUMBER
2627	

MAIL DATE	DELIVERY MODE
04/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/568,204	BRONDIJK, ROBERT ALBERTUS	
	Examiner	Art Unit	
	NABIL Z. HINDI	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

In response to applicant's amendment DATED March 04, 2009. The following action is taken:

Applicant's representative is respectfully asked to setup either a telephonic or personal interview with the examiner of record to discuss the outstanding office action.

Claim 3 is not enabled under 112, 1st, as having undue breadth. There is no structure claimed to define the apparatus. Hence, the claim covers every conceivable structure for performing the method, while the specification discloses at most only those known to the inventor (see MPEP 2164.08(a)).

The examiner is relaying on the specification is reading the claimed invention. The limitation "hierarchical fragment" is merely a multi session recording on the disk wherein each session having a lean-in, program area and a lead-out area. Such session recording is known in the art when data recording is not "closed".
The claims are rejected for the same reasons set forth in the previous office action repeated herein.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda (6370091) in view of Ito et al (6243340)

The examiner interprets the newly added limitation in the claim as a session recording wherein a data session having a lead-in, program area and a lead-out area is within another recording information fragment within the program area (user data area). The primary reference shows a multi layer disk having first and second layers wherein the data capacity on the first layer is substantially the same on the second layer as shown in figs 3B, 3C, 5 and 10. However the primary reference does not disclose the use of a session recording. Applicant's attention is drawn to fig 4 of the secondary reference showing a data fragment 401 or 404 within a data fragment 400 for what is called session recording on the disk for the purpose of compatibility of the data format on the disk with the reading and recording device. It would have been obvious to one of ordinary skilled in the art at the time the invention was made to use the teachings of the secondary reference and modify the primary reference. Such modification of recording fragment within a fragment (session recording) is well established in the art for the purpose of updating the data recording during a non finalized data recording state and maintaining compatibility of the disk format with various disk reading and recording devices.

With respect to the limitations of claims 2 and 3 see the cited figures showing a multi layer disk recording and reading apparatus.

With respect to the limitation of claim 4. The claim read on session recording on a multi layer disk the primary reference discloses the use of a multi layer disk. The secondary

reference discloses a session recording. Thus it is obvious to one of ordinary skilled in the art to increase the data volume on the disk by duplicating the data capacity when recording on a multi layer disk.

With respect to the limitations of claims 5-7. The claim read on a session recording. Such is shown in the secondary reference and obvious under 103 rejection as stated above.

With respect to the limitations of claims 8 and 9. the secondary reference discloses the use of session recording. The session data contains data such as lead-in and lead-out data which indicates if a session address data is recorded or not see fig 5. thus such limitation is obvious to one skilled in the art since session recording is well established in the art to have a non-recorded session data or recorded session data based on the address data within the lead-in and lead-out area.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (7274638) in view of Ito et al (6243340)

The primary reference shows a multi layer disk having first and second layers wherein the data capacity on the first layer is substantially the same on the second layer as shown in figs 5A, 5B and 6A-6C layers L0, L2 and layers L1, L3. However the primary reference does not disclose the use of a session recording. Applicant's attention is drawn to fig 4 of the secondary reference showing a data fragment 401 or 404 within a data fragment 400 for what is called session recording on the disk for the purpose of compatibility of the data format on the disk with the reading and recording device. It would have been obvious to one of ordinary skilled in the art at the time the invention was made to use the teachings of the secondary reference and modify the primary reference. Such modification of recording fragment within a fragment (session recording) is well established in the art for the purpose of updating the data recording during a non finalized data recording state and maintaining compatibility of the disk format with various disk reading and recording devices.

With respect to the limitations of claims 2 and 3. The primary reference disclose the use of a buffer area and the method recordable DVD with multi layer.

With respect to the limitation of claim 4. The claim read on session recording on a multi layer disk the primary reference discloses the use of a multi layer disk. The secondary reference discloses a session recording. Thus it is obvious to one of ordinary skilled in the art to increase the data volume on the disk by duplicating the data capacity when recording on a multi layer disk.

With respect to the limitations of claims 5-7. The claim read on a session recording. Such is shown in the secondary reference and obvious under 103 rejection as stated above.

With respect to the limitations of claims 8 and 9. the secondary reference discloses the use of session recording. The session data contains data such as lead-in and lead-out data which indicates if a session address data is recorded or not see fig 5. thus such limitation is obvious to one skilled in the art since session recording is well established in the art to have a non-recorded session data or recorded session data based on the address data within the lead-in and lead-out area.

Applicant's arguments filed March 04, 2009 have been fully considered but they are not persuasive. The examiner's rejection is predicated on how the claims are broadly interpreted. The claims 1 and 10 merely read on a disk having a lead in and lead out areas (inherently present in optical disks), between such areas are user data area (corresponding to recording session), within the session a fragment data with it's own lead in and lead out area is recorded. The disk is a multi layer with substantially equal data capacity. Now "session" and "fragments" are merely interpreted as data, thus the claims read on a multi layer disk having data with a lead in and led out areas, furthermore the data is divided into smaller data (mini data) with lead in and lead out area. Therefore under 103 rejection, Ito et al does disclose the use of a disk having data region with a lead in and lead out tracks, the data region is further divided into multiple data with lead in and lead out tracks meeting the claimed interpretation. The primary references show the use of a multi layer disk with equal data capacity.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6580679.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to NABIL Z. HINDI at telephone number (571) 272-7618.

/NABIL Z HINDI/

Primary Examiner, Art Unit 2627